

August 3, 2022

Rules Coordinator  
Office of the Washington Insurance Commissioner  
P.O. Box 40255  
Olympia, WA 98504-0255

*Submitted via email*

**RE: Matter R 2022-01 – Transparency in insurance underwriting (Second Prepublication Draft) - NAMIC and NWIC’s Written Testimony**

Dear Commissioner Kreidler:

On behalf of our member companies, the National Association of Mutual Insurance Companies (NAMIC) and Northwest Insurance Council (NWIC) wish to provide the following comments regarding the above captioned second draft of the proposed regulation provided by the Office of the Insurance Commissioner’s (OIC) to insurers on July 20, 2022. NAMIC and NWIC specifically incorporate by reference into this written submission our comment letter dated March 1, 2022, captioned “Matter R 2022-01, Comments on OIC CR 101 – Transparency in insurance underwriting” and our written comment letter dated June 15, 2022, captioned “Matter R 2022-01 – Transparency in insurance underwriting (First Prepublication Draft) - NAMIC and NWIC’s Written Testimony”.

NAMIC’s and NWIC’s members companies appreciate the importance of providing insurance consumers with accurate and helpful information, so that they may make a thoughtful and informed decision in the competitive insurance marketplace. Insurers are committed to providing reliable, useful and beneficial information to consumers about the policies and coverages they purchase.

As we stated in our previous written comments, we believe that current disclosure-related regulatory requirements and insurer practices provide consumers with the information they need to evaluate their insurance options and make an informed decisions about their insurance coverage and their premium. Although we appreciate the OIC’s desire for insurers to provide consumers with excessively granular information about their insurance premium and the rating variables, we believe that the OIC needs to be mindful of the facts that insurers cannot disclose to consumers detailed rating and premium analysis information that they do not collect, or disclose granular pricing information that is inconsistent and incompatible with how insurers evaluate multi-variant rating factors and formulate rates. Additionally, we believe that consumer disclosures should educate consumers about meaningful information pertinent to their insurance decision-making, not confuse consumers with unnecessary and complex rate factor pricing information that is not helpful to the consumer.

Since the second draft of the proposed regulation is almost identical to first draft, we believe it is important to reiterate several general concerns that we have with the proposed regulation:

1. Some insurers do not generate the detailed rating information and/or may not be able to develop a way to gather and report the required information in a manner that would provide a consumer with the granular-level information required by the proposed regulation.
2. For even the most technologically sophisticated insurers, the degree of programming necessary to attempt to provide the information sought by the OIC will be extraordinary – costs that will ultimately be paid for by policyholders at a time when inflation is already driving up the cost of insurance for consumers across the nation.
3. Insurers have developed complex, multivariate rating plans (all of which have been exhaustively reviewed and approved by the OIC before entering the marketplace) in order to compete with each other and provide consumers the widest possible array of products and highly competitive prices. As such, the rule as drafted raises key concerns about the ultimate impact on Washington’s highly competitive P&C insurance market.
4. Insurance consumers are not insurance regulatory actuaries – they rely on the Insurance Commissioner and the OIC staff to review complex insurance rating plans to ensure rate fairness and adequacy. Company and agent interaction with customers suggests that policyholders are not seeking complex answers, mathematical calculations, and detailed explanations on every issue, especially when the consumer may not have asked the question in the first place and may not know how to apply the information they receive.

NAMIC and NWIC appreciate that the OIC has revised the proposed draft regulation to limit the the Premium Change Notice requirement to only policyholders who have received a premium increase of ten percent or more, or policyholders who have requested the detailed information about their premium increase. However, we believe that no consumer should be burdened with this disclosure unless they have asked their insurer for the detailed information. The vast majority of insurance consumers are not going to want this complex level of rate-pricing information, because it will not improve their insurance product or insurance carrier decision-making. Consequently, we believe that the proposed regulation should read:

*Insurers must use the Premium Change Notice provided in this chapter to notify policyholders of a premium increase of ten percent or more upon written request by the policyholder.*

Additionally, we respectfully tender the following comments:

- 1) The proposed regulation will adversely impact consumer choice in the marketplace - We believe that the wide variety of rating plans in the market provides consumers more choices and price-points, which is clearly beneficial to consumers. The proposed regulation is over-prescriptive and will stifle creativity, innovation and competition, to the detriment of Washington consumers. Consequently, we suggest that if the OIC finds it necessary to require explanation of each renewal premium change of

+10%, that companies be granted broad discretion as to how to explain the premium change to their policyholders.

2) The timing requirement in WAC 284-30A-040 (6) (a) (i) is unworkable. According to the second draft, insurers would provide a Premium Change Notice to each policyholder receiving a premium increase of ten percent or more, or upon the policyholder's request. The insurer would send the notice to the policyholder at least 20 days prior to the effective date of the premium change. This timing requirement (20 days prior to renewal effective date) does not make sense in the case of a consumer request, which might be even after the renewal effective date. If a request is received, it makes sense to require the response and notice within 45 days after receipt of the request.

3) The provisions relating to trade secrets, credit-based insurance scoring and usage-based insurance are unclear and appear to be contradictory. It is unclear how factors like usage-based scores, credit-based insurance scores and other composite rating variables are to be treated. We are under the impression that companies' usage-based insurance scores (models) and credit-based insurance scores (models) are typically protected trade secrets. Are usage-based scores expected to be treated differently? The second draft of the proposed regulations has separate sub-paragraphs to address them, so one could reasonably infer that they are to be treated differently. Specifically, are usage-based scores expected to be treated differently than credit-based insurance scores and other trade secret rating components, and if so, how?

NAMIC and NWIC recommend that the OIC provide an illustrative example of how a usage-based insurance score could be displayed differently from other rating characteristics, even beyond credit-based insurance scores. The exact attributes and scoring algorithms within usage-based insurance score models are typically protected trade secrets, so would it be acceptable to treat "usage-based insurance score change" as a "reason", without providing the specific attributes (which are trade secret-protected)? How are usage-based insurance scores different than credit-based scores and others?

4) The itemized statement requirement of the proposed regulation is likely to confuse consumers. WAC 284-30A-040 (6) (a) (iv), (v), (vi) of the second draft requires that insurers must include an itemized list of all rates, coverages and rating components. If companies show separate lines for each "coverage", this will confuse customers, and consumers will not be able to understand the impact of each "reason" and how it all relates. Also, the Premium Change Notice form would become much longer and much more confusing for consumers. For auto insurance, one policy often includes multiple vehicles, and each vehicle includes multiple coverages (often 6 or more). So for each single "reason" (that is, each single row on the sample Premium Change Notice form in draft WAC 284-30A-050 (2)), the Premium Change Notice form would often include more than 10 or even 20 lines for auto insurance policies.

Also, the changes for each "reason" will be separated (because changes must be listed in decreasing order), and changes for each coverage will also be separated, making understanding even more difficult for consumers. We suggest that the Premium Change Notice form display only premium changes for all coverages combined.

5) We believe it is unclear how insurers are to reflect the “capping” or premium stabilization rules in the Premium Change Notice Form. The entire topic of stabilization/capping and the draft introductory paragraph in the Premium Change Notice Form might be very difficult for consumers to understand, contributing to more confusion and less understanding for many consumers, and leading to more questions for insurance companies and the OIC to have to handle.

For example, are the insurance companies who use premium or rate factor stabilization rules expected to list “premium stabilization” as one of the “reasons” on the form? Are “indicated” changes expected to somehow be allocated among the different “reasons”? We suggest that premium stabilization be reflected in a “reason” named something like “insurance company price change”. This “reason” would reflect changes that are included as part of a general company rate change, including things like base rate changes, rate factor changes, and other rate manual rules.

Even in a simple case, it might happen that the only “rating characteristic change” is that a recent prior claim is added (or becomes older and drops off), but the final premium could go down (up) due to stabilization. Adding a new claim will cause the “fully indicated ultimate calculated premium” to increase, yet the stabilized/capped premium might actually decrease from the prior term.

The following examples illustrate the problem:

- If the number of prior claims increases due to a recent new claim, that is likely to increase the “indicated premium” (by +10% for example). But even if nothing else changes, the stabilized (capped) premium might (a) increase by a smaller percentage, like 5% due to the stabilization rule or (b) not change at all or (c) decrease.
- Similarly, if a claim drops off the record, that would likely decrease the “indicated premium” (by -10% for example). But even if nothing else changes, the stabilized premium might (a) decrease by a smaller percentage like 5% due to the stabilization rule or (b) not change at all or (c) increase.

There are many possible scenarios, but the following are a few more detailed examples. Some of these might be rather extreme cases, but they illustrate clearly what can happen.

<b>Scenario 1</b>	<b>Premium</b>
Prior Term Indicated Premium	<b>1100</b>
Prior Term Stabilized/Capped Premium	<b>1000</b>
Prior Term Rate impact of stabilization/Capping Rule	-100
A prior claim is removed (becomes too old to be counted)	
New indicated Premium (20% reduction)	880
New stabilized/capped premium (5% change)	950

New impact of stabilization/capping rule	70
Change in Indicated premium	-220
Change in stabilized/capped premium	-50
Change in impact of stabilization/capping rule	170

<b>Scenario 2</b>	<b>Premium</b>
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Prior Term Indicated Premium	<b>600</b>
Prior Term Stabilized/Capped Premium	<b>1000</b>
Prior Term Rate impact of stabilization/Capping Rule	400
A prior claim is removed (becomes too old to be counted)	
New indicated Premium (20% reduction)	480
New stabilized/capped premium (5% change)	950
New impact of stabilization/capping rule	470
Change in Indicated premium	-120
Change in stabilized/capped premium	-50
Change in impact of stabilization/capping rule	70

<b>Scenario 3</b>	<b>Premium</b>
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Prior Term Indicated Premium	<b>1100</b>
Prior Term Stabilized/Capped Premium	<b>600</b>
Prior Term Rate impact of stabilization/Capping Rule	-500
A prior claim is removed (becomes too old to be counted)	

New indicated Premium (20% reduction)	880
New stabilized/capped premium (5% change)	630
New impact of stabilization/capping rule	-250
Change in Indicated premium	-220
Change in stabilized/capped premium	30
Change in impact of stabilization/capping rule	250

6) Some premium changes are not caused by individual policyholder rating characteristic changes, but instead are because of insurance companies' filed rate changes. Does the OIC anticipate that "insurance company price changes" would be one of the "reasons" on the Premium Change Notice Form? This "reason" would reflect changes that are included as part of a general company rate change, including things like base rate changes, rate factor changes, premium stabilization rules, and other rate manual changes.

On a related note, the proposed regulation still doesn't address the exposure changes vs. company-driven changes. This is a big concern and creates additional complexity in trying to explain to a consumer what is changing and what is causing a change. To isolate these factors and provide the information required by the regulation, insurers will have to rerate each policy multiple time:

- The first time with all current rates and factors held constant, but updated for any change in exposure at renewal when the insurer needs to identify those changes, quantify impacts, provide reason codes, etc., then
- Rerate policy with updates to anything related to company-driven changes.

This becomes more complicated if, for example, there is an exposure change (let's just use age for illustrative purposes) where the insured has a birthday and the insurer's age curve moves up/down depending on age, but the company also has made a standard change to their age curve factors.

Would the insurer be expected to define the change from the exposure change and the factor change separately and provide separate reasons for these?

7) NAMIC and NWIC have concerns that the proposed application of the Unfair Trade Practices Act (Act) to the proposed consumer notice provision denies insurers reasonable due process protections. The Act does not come into play until an insurer is provided a reasonable amount of time to rectify what the department would indicate is a violation to a particular insured. Therefore, the OIC should expressly state in the proposed regulation that insurers have 45 days to resolve any OIC concerns with an insurer's particular notice to a consumer before the insurer is considered to be in violation of the Act.

8) We believe subparagraph (2) proposed WAC 284-30A-060 is unnecessary, confusing and overly broad in terminology, so it should be removed from the proposed regulation. The provision states:

*Insurers must not enter into any agreement, arrangement, scheme, or understanding, or in any other manner pursue any course of conduct, designed or intended to avoid compliance with the rules contained in this chapter.*

NAMIC and NWIC are unclear as to what concern the OIC is attempting to address with this specific language. Of particular concern is the broad and nebulous language, “... or in any other manner pursue any course of conduct, designed or intended to avoid compliance with the rules contained in this chapter.” [Emphasis added]. We are concerned that this provision could be interpreted by the OIC so as to authorize it to sanction an insurer for reasonably changing an internal business practice necessary to streamline or economize its compliance with the proposed regulation.

9) NAMIC and NWIC request clarification as to applicability to private passenger autos (PPA). Specifically: are specialty type vehicles included in the scope of proposed regulation? There are many interpretations of “PPA”, depending on the use/user:

- Statutory Annual Statement definitions
  - Private Passenger Auto Liability (19.1/19.2) and Private passenger Auto Physical Damage (21.1) typically includes the Specialty vehicles (ex-boat) that offer these coverages as well Motorcycle, RV’s, trailers, etc.
- SERFF Type of Insurance definitions
  - In the below chart, the “PPA” definition seems to be used for the subset of auto that are not Specialty Vehicles, and with the broadest bucket being called “Personal Auto”...
- Contract definitions – we are not aware of industry standard here, but we are concerned that “PPA” could be another overlapping/different definition.

SERFF Type of Insurance

19.0 Personal Auto	19.0000 Personal Auto Combinations	Privately owned motor vehicles and trailers—for use on public roads—not owned or used for commercial purposes. This includes Personal Auto Combinations of Private Passenger Auto, Motorcycle, Financial Responsibility Bonds, Recreational Vehicles and/or Other Personal Auto.	19.1, 19.2, 21.1
	19.0001 Private Passenger Auto (PPA)	PPA filings that include singularly or in any combination coverage such as the following: Auto Liability, Personal Injury Protection (PIP), Medical Payments (MP), Uninsured/Underinsured (UM/UIM); Specified Causes of Loss, Comprehensive, and Collision.	19.1, 19.2, 21.1
	19.0002 Motorcycle	Motorcycle filings that include singularly or in any combination coverage such as in the following: Motorcycle Liability, PIP, MP, UM/UIM, Specified Causes of Loss, Comprehensive, and Collision.	19.1, 19.2, 21.1
	19.0003 Recreational Vehicle (RV)	RV filings (including filings for Golf Carts) which include singularly or in any combination coverage such as the following: Auto Liability, PIP, MP, Uninsured Motorist and/or Underinsured Motorists (UM/UIM); Specified Causes of loss, Comprehensive, and Collision.	19.1, 19.2, 21.1
	19.0004 Other	A catchall code for other than the previously presented auto coding used for Personal Auto.	19.1, 19.2, 21.1

10) The new draft rule proposal has a change that applies the regulation to only renewals, where draft #1 applied the proposed regulation to both renewals and insurer policy modifications. Can the OIC explain how this change is to apply and what impact it is intended to have? Does removing insurer policy modifications refer more toward policy contract, forms or policy language changes?

The proposed regulation still implies a required explanation of any change to premium, regardless of whether it is customer driven (exposure change) or company driven (rate/factor change). Insurers need clarity as to whether they have to provide this notice on mid-term changes or just at renewal. If the consumer notice is required at renewals and at customer requests, some insurers would need to be able to program their system with the ability to take into account mid-term changes.

11) What is the OIC's rationale for not allowing grouping of variables? The proposed regulation states that insurers cannot group variables for the consumer notice into subcategories or reasons such as UW Tier, Driver Class, Risk Score, Household Comp, etc? Wouldn't the grouping be easier for the policyholder to understand, as opposed to listing every variable?

12) NAMIC and NWIC request clarification on some process aspects of the consumer notice. Per the regulation, the consumer notice must be sent at customer request for any premium change. Does this require a notice be sent for mid-term changes or any change that does not come at the time of the "scheduled" renewal?

We also have some concerns about the information required to be included in the consumer notice:

- The draft states that including compound variables like tier, driver class, etc. in the consumer notice is not acceptable. However, for some insurers it is impossible to break out premium changes to every single composite rating variable because some compound variables are modeled by GLM.
- Among some insurers, there are 10 to 20 rating variables for the base policy rating, and even more endorsements, which can all contribute to a premium change. This could easily make the consumer notice 20 to 30 pages long, which can significantly increase the cost of creating, printing and mailing the consumer notice (as well as serve to increase, not reduce, consumer frustration or confusion).
- In order to explain the premium change in the detail that the the draft rule requires, some insurers will have to aggregate premium impact by coverage or by peril. This requires a significant amount of time and IT effort. A number of our members have mentioned that this will take *several years* to accomplish.

13) NAMIC and NWIC also have some suggestions for WAC 284-30A-020:

a) It would be helpful if there was an exemption for changes to base rate that affects everyone and has been approved by the department. (For example, Wisconsin has that facet to its "altered terms" notice rule that recognizes a distinction if the increase in premium is the result of an action on the part of the insured that alters the nature or extent of the risk.) The notice form makes reference to future premium changes "if you change your coverage, if there are changes in your risk characteristics...or by future rate change filings made by your company". However, the proposed regulation doesn't address how those circumstances are considered in the 10% requirement.



Similarly, the proposed regulation mentions rate capping in the Notice Form and states that information must be provided if rate capping is used, but the draft regulation doesn't make clear whether the notice has to be provided if the use of rate capping *reduces* the rate change to less than 10% overall. Insurers need clarity on this issue.

b) The proposed regulation states that insurers must account for 100% of the change and list the elements from most impactful to least. This will be extremely difficult, time-consuming and costly to program. We request the OIC only require elements that had more than a certain impact percentage on the entire increase. For example, insurers need to only provide a list of the variables that resulted in changes over 10%.

Thank you for your time and effort on this project. Please feel free to contact us if you would like to discuss our written testimony and our suggested revisions to the regulation or our suggested alternative approaches to providing consumers with meaningful and helpful information about changes in their insurance premiums.

Respectfully,

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